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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,374	03/15/2001	Walter Winkler	1020843-991180	8757

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GARY CARY WARE & FREIDENRICH LLP  
1755 EMBARCADERO ROAD  
PALO ALTO, CA 94303-3340

[REDACTED] EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
3652	

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/810,374	WINKLER, WALTER
	Examiner	Art Unit
	Charles A. Fox	3652

--> The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 August 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 13, 17-20 and 22 is/are rejected.
- 7) Claim(s) 12 and 14-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 March 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

***Claim Objections***

Claims 12 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-5,10,11 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Klebe. In regards to claims 1,4 and 22 Klebe US 4,331,418 discloses an apparatus for picking articles situated on retrieval pallets in a pallet rack, said apparatus comprising:

a vehicle (1) capable of traveling along the front of the pallet rack (R);

a first lifting device (24) for lifting a picker to a desired height;

a second lifting device (12) for carrying a pallet;

said first and second lifting devices are positionable heightwise relative to a ground position independently of one another; wherein

the lifting devices when viewed in plan view are opposite to one another. See figure 3.

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In regards to claim 2 Klebe also discloses that the vehicle comprises a base (3) on which when viewed in a traveling direction has the first lift device on one end and the second lift device on a second end.

In regards to claim 3 Klebe further discloses that each lifting device comprises a vertical frame (18,22) along which the respective lifting devices (12,24) are vertically displaceable.

Regarding claim 5 Klebe further discloses that the vehicle (1) is mounted on rails (6 and 10).

In regards to claims 10 and 11 Klebe also teaches a load receiving means (21) for supporting a load receiving pallet at a right angle to the travel direction of the vehicle.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe as applied to claim 1 above, and further in view of Allen. Klebe teaches the limitations of claim 1 as above, he does not teach a crash bar for protecting the operator. Allen US 4,439,102 teaches that the picker-carrying device (10) has a circumferential crash guard for the picker. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide a crash bar as taught by Allen on the device taught by Klebe in order to provide adequate protection to the operator during operation of the device.

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Claims 7,13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe as applied to claim 1 above, and further in view of Singer et al. Regarding claims 7 and 13 Klebe teaches the limitations of claim 1 as above, he does not teach computer control of the picking operation. Singer et al. (US 5,953,234) teach a storage facility (3) with a semi automated inventory control and picking system (101) where the inventory is stored and retrieved by stacker retriever machines. See column 9 lines 31-38. Singer et al. also teach a order picking screen on a terminal that displays the picking positions for a product. It would have been obvious to one of ordinary skill in the art, at the time of invention that the control and feedback system taught by Singer et al. could have been added to the apparatus taught by Klebe in order to allow a picking lift to move to the proper location without operator input, allowing for flexible use of the storage space by allowing any available space to store any type of product, with a computer keeping track of locations of the various products.

Regarding claim 17 Klebe further teaches that the height of the picking and pallet lifts are manually adjustable in relationship to a rack and each other.

Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe as applied to claim 1 above, and further in view of Dammeyer et al. Klebe teaches the limitations of claim 1 as above, he does not teach a dead man's switch or a standing seat. Dammeyer et al. (US 5,044,472) teaches an order picking apparatus with a standing seat (32) and a dead man's switch. See column 3 lines 19-26. It would have been obvious to one of ordinary skill in the art, at the time of invention to add the seat and dead man's switch as taught by Dammeyer et al. to the device taught by Klebe

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as they are well known safety features on many types of apparatus, and would decrease the likelihood of the apparatus moving without a clear and present signal that the operator is in a safe position for movement of the vehicle.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe and in view of Dammeyer et al. as applied to claim 8 above, and further in view of Singer et al. Klebe in view of Dammeyer et al. teach the limitations of claim 8 as above, they do not teach that the system is designed to acknowledge when a pick is finished. Singer et al. teach an input being used to inform a controller that a pick is finished, allowing the picker to be instructed where to report for the next pick. It would have been obvious to one of ordinary skill in the art, at the time of invention that a control system as taught by Singer et al. could be added to the apparatus taught by Klebe in view of Dammeyer et al. in order to route pickers to the closest next pick, thereby saving travel distance and time for the picker.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe as applied to claim 1 above, and further in view of Benjamin. Klebe teaches the limitations of claim 1 as above, he does not teach the apparatus as moving in the horizontal and vertical direction at the same time, or an outside power source for the vehicle. Benjamin (US 4,252,217) teaches using an overhead power line (56) to power a picking device (10). Benjamin further teaches that the picker device (10) can have compound travel when moving from one location to another. It would have been obvious to one of ordinary skill in the art, at the time of invention to add the capabilities taught by Benjamin to the device taught by Klebe in order to improve the efficiency of

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the device and to eliminate the need to rely on battery power to drive the device, therein increasing the productivity of the device.

***Response to Amendment***

The amendments to the claims filed on August 19, 2002 have been entered into the record.

***Response to Arguments***

Applicant's arguments with respect to claims 1 and 22 have been considered but are moot in view of the new ground(s) of rejection. The USC 112 second paragraph rejections of claim 19 has been withdrawn.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Keene (1976), Malin (1993), and Ohgita et al. (1995).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CAF  
114-62

*Kathy Matecki*  
KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600